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25 March 1987
OCA 87-1161

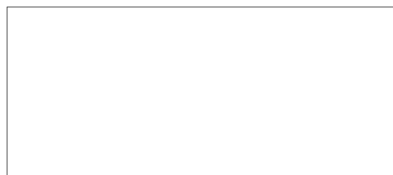
MEMORANDUM FOR THE RECORD

25X1 FROM: [] Legislation Division
Office of Congressional AffairsSUBJECT: Comments to the NSC on the Intelligence Oversight Amendments
of 1987, H.R. 1013

1. On 23 March 1987, I received from the National Security Council (NSC) a copy of the attached package for review and comment. I discussed with Dave Gries, the Director of Congressional Affairs, how we should proceed in relaying our comments. It was decided that we would state, by telephone, that we defer to the White House inasmuch as the bill addresses issues of constitutional law affecting the powers of the President. Mr. Gries also wished to point out that Mr. Gates referred to the 48-hour notification provision in his open confirmation testimony before Congress. []

2. I informed [] counsel for the Directorate of Operations, of this decision. He stated, however, that he thought we should also let the NSC know that we have serious problems with the bill and that the White House should oppose it. I then telephoned Grant S. Green, Jr., Executive Secretary of the NSC, to tell him that the Agency had nearly, but not quite, reached a consensus on the measure and that we would let him know our opinion in the morning. []

3. On 24 March 1987, I spoke with [] who told me that there was to be a meeting between Mr. Doherty and Mr. Gates to determine how neutral the Agency wished to appear with regards to this issue. He said that he expected the matter to be resolved by early afternoon. Before I spoke again with [] however, I learned that Mr. Gates had reiterated his

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position that the Agency was not to take the lead in opposing this bill. Accordingly, I told Mr. Green that the Agency deferred to the White House in this matter. [redacted]

4. Per the request of [redacted] Deputy General Counsel, I told the same to Jay Taylor of the Bureau of Intelligence and Research/ Coordination in the State Department. He explained the Department's comments: that a written finding was fine; that the recipients of the finding should be limited to congressional leadership rather than disseminated to all intelligence committee members; that the provision of copies of the finding before the operation commences is not feasible and is inconsistent with the 48-hour delay of notification provision; that exclusion of the language regarding the President's authorities and duties as conferred by the Constitution compromises the President's position and will not aid the settling of disputes; that the 48-hour delay of notification provision should make clear that it refers to the narrower recipients delineated in the previous section; and that this bill could be used as a springboard for tightening up on procedures generally, such as formulating a joint committee on intelligence. [redacted]

Attachment:
as stated

Distribution:

Orig. - OCA/LEG/Subject File: Congressional Oversight

1 - Executive Secretary

1 - General Counsel

1 - [redacted]

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OCA/LEG, [redacted] (25 Mar 87)

C O N F I D E N T I A L

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20505

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March 23, 1987

87-1208X

MEMORANDUM FOR MR. DONALD P. GREGG
Assistant to the Vice President
for National Security Affairs

MR. MELVYN LEVITSKY
Executive Secretary
Department of State

MR. ROBERT B. ZOELICK
Executive Secretary
Department of the Treasury

COLONEL JAMES F. LEMON
Executive Secretary
Department of Defense

MR. JOHN N. RICHARDSON
Assistant to the Attorney General
and Chief of Staff
Department of Justice

MR. L. WAYNE ARMY
Associate Director for National
Security and International Affairs

Executive Secretary
Central Intelligence Agency

**SUBJECT: H.R. 1013 - Intelligence Oversight Amendment
of 1987 (U)**

Hearings will be held by the House Permanent Select Committee on Intelligence April 1 on H.R. 1013. In order to permit timely coordination of the Administration's position on H.R. 1013, you are requested to submit your agency's views or comments on the bill to the NSC not later than close of business Monday, March 23, 1987. (C)

Grant S. Green
Grant S. Green, Jr.
Executive Secretary

Attachment
H.R. 1013

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Declassify on: OADR

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100TH CONGRESS
1ST SESSION

H. R. 1013

To strengthen the system of congressional oversight of the intelligence activities of the United States.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1987

Mr. STOKES (for himself, Mr. BOLAND, Mr. BEILSON, Mr. McHUGH, Mr. McCURDY, Mr. DANIEL, Mr. BROWN of California, Mr. DWYER of New Jersey, Mrs. KENNELLY, Mr. KASTENMEIER, and Mr. ROX) introduced the following bill; which was referred jointly to the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs

A BILL

To strengthen the system of congressional oversight of the intelligence activities of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Intelligence Oversight
5 Amendments of 1987".

6 SEC. 2. WRITTEN FINDINGS.

7 Section 662 of the Foreign Assistance Act of 1961 (22
8 U.S.C. 2422) is amended—

1 (1) by inserting ", in writing," after "the Presi-
2 dent finds"; and

3 (2) by inserting ", and a copy of each such writ-
4 ten finding shall be furnished, prior to the initiation of
5 any such operation, to the Select Committee on Intelli-
6 gence of the Senate and the Permanent Select Com-
7 mittee on Intelligence of the House of Representatives,
8 or, as the case may be, to the Members of Congress
9 referred to in section 501(a)(1)(B) of the National Secu-
10 rity Act of 1947, and to the Vice President of the
11 United States, the Secretary of State, the Secretary of
12 Defense, and the Director of Central Intelligence,"
13 before the period at the end thereof.

14 **SEC. 3. DEFERRAL OF NOTICE.**

15 Section 501 of the National Security Act of 1947 (50
16 U.S.C. 413) is amended—

17 (1) in subsection (a), by striking "all applicable
18 authorities and duties, including those conferred by the
19 Constitution upon the executive and legislative
20 branches of the Government, and to the extent consist-
21 ent with";

22 (2) by striking subsection (b);

23 (3) by redesignating subsections (c), (d), and (e) as
24 subsections (b), (c), and (d), respectively;

8

1 (4) in subsection (b), as so redesignated, by strik-
2 ing "subsections (a) and (b)" and inserting in lieu
3 thereof "subsection (a)"; and

4 (5) by adding at the end the following new sub-
5 section:

6 "(c) Only in extraordinary circumstances affecting the
7 vital interests of the United States, and only where time is of
8 the essence, the provision to the Congress of notice of a sig-
9 nificant anticipated intelligence activity may be deferred for
10 not more than 48 hours after the initiation of such an activity
11 or the signing of a finding pursuant to section 662 of the
12 Foreign Assistance Act of 1961."

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